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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,661	02/18/2004	Peter C. Brusso	040580	5222
24243	7590	08/09/2005	EXAMINER	
CHARMASSON & BUCHACA & LEACH LLP 1545 HOTEL CIRCLE SOUTH SUITE 150 SAN DIEGO, CA 92108-3412			LABAZE, EDWYN	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/782,661

Applicant(s)

BRUSSO ET AL.

Examiner

EDWYN LABAZE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 3-6 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of amendments filed on 5/25/2005.
2. Claims 3-6 are presented of examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco et al. (U.S. 6,658,323) in view of Seifert et al. (U.S. 6,814,282).

Re claims 3-6: Tedesco et al. [hereinafter referred as "Tedesco"] discloses vending machine apparatus 42 for encouraging participation in a marketing effort, comprising of means for accepting from a purchaser of food or beverage items dispensable by the installation and processing a creditable and debitable smart card (as shown in fig. # 1; col.5, lines 5+), electromechanical means for accepting currency [through the bill validator 130 or coin acceptor 125 (col.5, lines 17+); means for debiting the card [through the card reader 120, wherein a card processing equipment is incorporated at a remote location {not shown by Tedesco} for validating the card based purchases] by an amount of payment for at least one of the items (col.5, lines 10+). Tedesco further discloses means for storing [through the data storage 170] records of currency amounts accepted by the electromechanical means of the amount of payment debited from the card (col.5, lines 60+).

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Tedesco fails to specifically teach that the card reader through the vending machine includes means, responsive to said means for accepting, for writing on said card an amount of currency accepted by said electromechanical means, and an automated clearing house for debiting the smart card.

Seifert et al. teaches systems and methods of introducing and receiving information across a computer network, which includes a card reader 208 with means for writing on the card [through the card writer 210 within the kiosk terminal 110b] an amount of currency accepted by said electromechanical means (as shown in fig. # 1C; col.6, lines 1+), an automated clearing house/ACH (col.4, lines 60+; col.5, lines 5+; col.8, lines 5+; col.13, lines 35+).

In view of Seifert et al.'s teachings, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ into the teachings of Tedesco a card reader with means of writing/encoding data on the smart card so as update the card holder account information during the financial transaction. Furthermore, such modification would provide means of reading the smart card information, validate the authenticity of the card, compare the price of the items to be purchased with the amount of money available on the smart card, and deduct the purchased amount from the monetary information stored of the card and update new available monetary/fund amount on the card. Moreover, such modification would have been an obvious extension as taught by Tedesco, therefore an obvious expedient.

Response to Arguments

5. Applicant's arguments filed 5/25/2005 have been fully considered but they are not persuasive.

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- The applicant argues that the prior art of record, Tedesco U.S. 6,658,323, does not maintain or process any data related to the operator of a vending installation (see page 4, lines 11+).

The examiner respectfully disagrees with the applicant's remarks. Tedesco discloses an offer identifier 305/310/310/320, 510/515, 605/610, and 705/710 (as shown in figs. # 3, 5, 6, & 7), which describes the product/good installed in the vending machine and thereby relates the vendor.

- The applicant argues that the prior art of record, Seifert U.S. 6,814,282, failed to teach the full potential of the smart card and consequently teach away from the instant invention by insisting upon associating the card with its holder or his bank account (see page 6, 4th paragraph).

The examiner respectfully disagrees with the applicant's remarks. Seifert does disclose the use of smart card or value card. As well known in the art, most smart card (such as a metro smart card, carrying a small prepaid value with means of recharging the card; see U.S. 6,786,402 of Harris col.5, lines 4+; col.6, lines 5-67) does not identify or record any information of the cardholder but the location of the transaction/vendor, time of the transaction, and cost of the transaction. Therefore, the smart card system of Seifert {as disclosed in col.9, lines 35+} can be interpreted as capable of being used in similar method.

- The applicant added that the records stored by the device relate only to the vendor. As stated on page 16, line 1 2 of the Specification, "the smart card need not be processed by the clearing house. . ." (see page 6, 1st paragraph).

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The examiner respectfully disagrees with the applicant's remarks because said limitations are not in the claimed invention.

Furthermore, the amended claimed limitation states "means for storing records of currency amounts accepted by said electromechanical means and of said amount of payment debited from said card along with an identification of said vendor and excluding any information about any money account related to said card", said limitation {excluding any information} is still broad and is anticipated by the rejection of Tedesco in view of Seifert. Therefore, the examiner retains the rejection as set forth above.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

el

Edwyn Labaze
Patent Examiner
Art Unit 2876
August 5, 2005



**THIEN M. LE
PRIMARY EXAMINER**